

MONTGOMERY TRACE PROPERTY OWNERS ASSOCIATION

STANDARD PRACTICE BULLETIN

DEED RESTRICTION ENFORCEMENT WORK PROCESS

I. SUMMARY OF DEED RESTRICTION POLICY

The policy of The Montgomery Trace Property Owners Association (Association) is to fairly and equitably enforce the Declaration of Covenants, Conditions and Restrictions throughout all sections of Montgomery Trace subdivision. The critical elements of this work process are Identification and Verification; Reporting; Notification and Communication; and Resolution. As soon as a violation has been identified and verified, a "1st Letter" will be mailed to the owner's last known address as formal notification that the deficiencies must be corrected. If the deficiencies are not corrected, a "2nd Letter" will be sent as notification that a time and date has been scheduled for the owner to appear before the Board in an effort to resolve the matter amicably. A copy of this "2nd Letter" also serves as notification to the appropriate member of the Board of Directors to make every reasonable effort to contact the owner to encourage cooperation in appearing for the hearing before the Board at the scheduled time and/or voluntarily correcting the deficiencies. If the deficiencies are still not corrected, the matter is released to the Association's attorney with authorization to take whatever action is necessary to obtain compliance with the Covenants.

II. PURPOSE

The purpose of this Standard Practice Bulletin is to set forth the work process which will be followed to obtain compliance with the Covenants.

III. RESPONSIBILITY

The Board has overall responsibility for the administration of the provisions of this Standard Practice Bulletin. The Board has delegated certain specific operational tasks to the Association's contracted property management company as indicated elsewhere in this bulletin.

IV. DEFINITIONS

1. **DR** Shall be understood to mean "Deed Restrictions", a term which is interchangeable with the word "Covenants" for purposes of this bulletin.
2. **DRV** Shall be understood to mean "Deed Restriction Violation", in either singular or plural form.
3. **DRVC** Shall be understood to mean the "Deed Restriction Violation Coordinator", a member of the Board who has been assigned the responsibility of coordinating the administration of this bulletin.
4. **ACC** Shall be understood to mean the "Architectural Control Committee" in Montgomery Trace.
5. **SD** Shall be understood to mean "Section Director", a member of the Board elected, or assigned, to represent a specific section in Montgomery Trace.
6. **Manager** Shall be understood to mean the Association's contracted property management company and its employees.

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- 7. **Association** Shall be understood to mean the Montgomery Trace Property Owners Association
- 8. **Board** Shall be understood to mean the elected Board of Directors of the Montgomery Trace Property Owners Association.

V. TYPES OF DEED RESTRICTION VIOLATIONS

- 1. **“DRV – NORMAL HANDLING”** - Often times an owner takes action on his property without realizing that such action has resulted in a violation of the Covenants or that his actions have resulted in this work process being initiated to obtain compliance. These types of DRV do not require expedited handling and will subsequently be referred to as “DRV – NORMAL HANDLING” because they can often be resolved by a telephone call to an owner from a SD, or in some cases by a single friendly letter from the Manager.
- 2. **“DRV – SPECIAL HANDLING”** - Projects which have been initiated and are being progressed without ACC approval are particularly onerous and action must be taken by the Manager within 24 hours of the violation being verified. Such “DRV – SPECIAL HANDLING” will be pursued vigorously to avoid the possibility of an owner being required to remove all or part of a project which does not comply with the Covenants, Board and/or ACC standards and procedures.

VI. IDENTIFICATION AND VERIFICATION OF A DEED RESTRICTION VIOLATION

- 1. Primary inputs to this work process are to be made by the Manager, who is contracted to perform a monthly drive-thru inspection of all sections of Montgomery Trace to confirm compliance with the Covenants. This drive-thru inspection shall be completed on or before the 3rd Monday of each month. The Manager makes a written report of anything found not to be in compliance with the Covenants, the ACC Standards, the approved plans and any conditions of plan approval contained in the official ACC project approval letter.
- 2. Secondary inputs to this work process may be made in the following manner.
 - a. A member of the Board may identify a DRV in any section of Montgomery Trace.
 - b. Members of the ACC may identify a DRV in any section of Montgomery Trace.
 - c. An individual owner of property may identify a DRV in any section of Montgomery Trace.
- 3. All DRV must be reported to the Manager via letter, e-mail or telephone. Adequate information explaining the DRV, the specific section of the Covenants being violated, and the address or legal description of the property must be provided.
- 4. Before any action is taken with a property owner to obtain compliance, a DRV must be verified by the Manager by personal observation and/or review of the permanent files. Except for extenuating circumstances, the Manager will normally make this verification during the next scheduled drive-thru inspection.
- 5. Projects being progressed without ACC approval are serious DRV which require immediate action by the Manager in the manner specified later in this work process.

VII. REPORTING DEED RESTRICTION VIOLATIONS

- 1. The Manager is responsible for maintaining a current data base of all DRV along with the status of actions being taken to obtain necessary corrective actions.
- 2. The Manger is responsible for publishing a monthly inspection report and for providing the report to each SD. The report must include a brief description of the DRV; the date the DRV was observed

and/or verified by the Manager; date and type of letters sent to property owner; date and status of efforts of SD to communicate with owner; date and nature of corrective actions taken by owner; date of release of matter to Association's attorney; status of legal action; and date of final resolution.

3. DRV which have been resolved are to be deleted from the report in the month following the date of final resolution.

VIII. NOTIFICATION AND COMMUNICATION

A. DRV – NORMAL HANDLING

1. A "1st Letter" is sent via regular mail by the Manager not later than the 4th Monday of each month. This letter shall be sent to the last known address of the property owner; shall describe the DRV; and shall request that voluntary action be taken to correct the deficiency. The Manager is authorized to prepare and mail the "1st Letter" without Board action and as soon as the DRV has been verified.
2. During the next drive-thru inspection, the Manager notes whether or not the DRV has been corrected. If the DRV has been corrected, the Manager makes appropriate notes on the inspection form and the item is dropped from the next month's report and no further action is taken. If the DRV has not been corrected, a second letter is sent as described in Item VIII, A, 3 below.
3. A "2nd Letter" is sent to the owner via certified mail return receipt requested and a separate copy is sent via regular mail notifying the owner that the DRV still exists and that a time slot for the owner to appear before the Board has been scheduled at the next regularly scheduled Board meeting to resolve the matter amicably. The Manager sends a copy of the "2nd Letter", which shall include owner's last known telephone number, to the SD in the appropriate section of Montgomery Trace.
4. The SD is responsible for contacting the property owner and for communicating the seriousness of the situation along with the following specific items.
 - a. Remind the owner of the date, time and place of the scheduled hearing before the Board.
 - b. Negotiate and schedule a new time for the hearing if the violator is unable to attend the hearing which has already been scheduled.
 - c. Inform the violating owner that he/she will be expected to bring a written plan for correcting the violations when he/she appears at the hearing before the Board.
 - d. Inform the violating owner that the hearing before the Board will be held and action will be taken whether or not the owner attends.
 - e. Notify the DRVC by telephone or e-mail when contact was made with the violating owner; the results of the conversation; and whether or not the owner stated that he/she would attend the scheduled hearing.
5. The SD is further responsible for preparing and maintaining a Telephone Log containing the following listed items so that a permanent record will exist of all efforts made by the SD to contact and communicate with the property owner.
 - a. Name of Property Owner
 - b. Section, Block and Lot number of owner's property
 - c. Name of SD making the contact
 - d. Date the effort to contact was made along with a brief description of the issues discussed with the property owner such as plans, schedules, agreement to appear before the Board, etc.
 - e. Notations to indicate if no contact was made or if messages were left for the owner to call back.

6. The SD is responsible for delivering Telephone Log entries to the Manager via e-mail, hand-delivery or regular mail at least once per month.
7. During the next drive-thru inspection, the Manager notes whether or not the DRV has been corrected. If the DRV has been corrected, the Manager makes appropriate notes on the inspection form; notifies both the DRVC and the SD by the third Tuesday of the month; and drops the item from the next month's report so that no further action will be taken. If the DRV has still not been corrected, the Manager makes an entry on the monthly report that the matter has been referred to the DRVC for action.
8. After mailing the second letter, the Manager shall send no additional letters to the violating owner without specific instructions from the DRVC.

B. DRV – SPECIAL HANDLING

1. Projects Being Progressed Without ACC Approval

- a. Projects which the Manager believes are being progressed without ACC approval require immediate handling in the manner prescribed below.
 - 1). If the Manager finds that an ACC approval letter is in the permanent file, the matter will normally be resolved and considered a non-issue.
 - 2). If the Manager finds that an ACC approval letter is not in the permanent file, or if there are extenuating circumstances, the Manager must immediately notify the ACC Chairperson by telephone and confirming e-mail and provide the following minimum information about the situation including owner's name; Section, Block and Lot; street address; telephone number and a brief description of the perceived non-compliance issue.
- b. The ACC Chairperson is responsible for reviewing the permanent ACC file to confirm or deny that the project in question is being progressed without ACC approval.
 - 1). If the ACC Chairperson determines that the project has in fact been approved by the ACC, he/she shall notify the Manager by telephone and confirming e-mail. In this case no further action is required.
 - 2). If the ACC Chairperson determines that the project has not been approved by the ACC, The ACC Chairperson notifies the DRVC by phone and confirming e-mail.
- c. The DRVC shall immediately notify the appropriate SD, who is responsible for making an immediate effort to contact the property owner by telephone to provide notification that the project must be stopped until ACC approval is obtained. If the SD cannot make contact with the owner, or if the violating owner refuses to cooperate and continues construction, the SD shall contact the appropriate ACC Liaison for assistance.
- d. The SD and ACC Liaison are responsible for visiting the construction site and for informing the owner and/or contractors that all work must stop until ACC approval is obtained. If this effort to communicate is unsuccessful, the SD shall notify the DRVC of the need to initiate legal action to stop construction. The SD initiates a daily watch of the construction site and maintains a log of activity in a manner similar to the Telephone Log procedure discussed previously.
- e. The DRVC notifies the President and other members of the Board that legal action is about to start.
- f. The DRVC becomes responsible for managing and administering the following actions.
 - 1). DRVC shall arrange with the Manager and the ACC Chairperson to forward appropriate files to the Association's attorney.

- 2). DRVC shall instruct Association's attorney to obtain a temporary restraining order to stop construction.
- 3). DRVC may at his/her discretion appoint a Project Watch Group consisting of the appropriate SD and ACC Liaison. The Project Watch Group shall be responsible for monitoring the project in the field and for providing written reports on project activity as the DRVC may request.
- 4). DRVC shall assume the responsibility of primary spokesman for the Association and shall liaise with the Association's attorney, Manager, SD and ACC until the matter is resolved.

2. Projects Which Have Been Completed Without ACC Approval

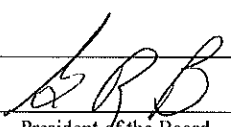
- a. The Manager is responsible for simultaneously notifying the DRVC and the ACC Chairperson by e-mail that a project appears to have been completed without ACC approval.
- b. The ACC Chairperson shall arrange to have the ACC files reviewed to confirm or deny that the project was completed without ACC approval. Depending on the results of the review, the ACC Chairman shall take one of the following actions.
 - 1) If the completed project was in fact approved by the ACC, the ACC Chairman shall notify the DRVC by e-mail. The DRVC shall in turn notify the Manager that a non-issue exists and that no further action is required.
 - 2) If the completed project was not approved by the ACC, the ACC Chairman shall simultaneously notify the DRVC and the appropriate ACC Liaison by e-mail and the following actions shall be taken.
 - a) The DRVC shall instruct the Manager to send the owner a form letter requesting that the required Request for ACC Approval forms and plans be submitted for approval.
 - b) The ACC Liaison shall inspect the project to determine whether or not the project would have been approved by the ACC had it been submitted for approval prior to construction. The ACC Liaison shall simultaneously convey his/her findings to the DRVC and the ACC Chairman by e-mail. This e-mail should contain a specific recommendation whether to approve or not approve the project "as constructed".
- c. Depending on the input received, the DRVC shall be responsible to determine which of the following action plans needs to be taken.
 - 1) If the owner does not submit plans for approval and the project is determined to otherwise be in compliance with the Covenants, the DRVC shall prepare an appropriate note and shall instruct the Manager to place the note and the form letter in the owner's unit file. No further action shall be taken.
 - 2) If the owner does not submit plans for approval and the project is determined to be in violation of the Covenants and/or ACC Standards, the DRVC shall instruct the Manager to initiate the communication process outlined in Item VIII, A above by sending the "1st Letter" immediately.
 - 3) If the owner submits plans for approval, such plans will be reviewed and handled in accordance with normal ACC procedures.

IX. RESOLUTION

Enforcement of the Covenants is a fiduciary responsibility of the Board and the Board intends to pursue fair and equitable resolution of DRV vigorously. It is the Board's hope that effective communication on the part of the Board will result in cooperation and voluntary compliance on the part of property owners

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Approved: _____


President of the Board

so that resolution of DRV can be achieved amicably. In those cases where voluntary compliance cannot be achieved, the Board will pursue the following methods of resolution.

1. Voluntary Compliance - The Manager is responsible for carefully monitoring the status of DRV during the monthly drive-thru inspections. DRV which have been corrected by voluntary compliance on the part of the owner will be so noted and deleted from the Inspection Report and no further action will be taken.
2. Hearings Before the Board - Owners have the right to appear before the Board to discuss and hopefully resolve DRV. This work process addresses that right and provides that owners be notified that a specific date and time has been scheduled for owners to appear and present a plan for resolution. The DRVC has the responsibility to facilitate the hearing process which will take the following general format during the Board meeting.
 - a. The DRVC will present the evidence of the alleged DRV.
 - b. The owner has the opportunity to present his perspective on the alleged violation. NOTE: The hearing will take place as scheduled even if the owner chooses not to appear and/or participate.
 - c. The Board votes and makes a final decision on the matter and course of action.
 - d. The DRVC prepares and mails a letter notifying the owner of the Board's decision, required action on owner's part, schedule for achieving compliance, etc.
 - e. In those cases where the owner failed to appear at the scheduled hearing before the Board, the SD is responsible for contacting the property owner to discuss the results of the hearing and to determine how the owner intends to proceed. The SD shall notify the DRVC by telephone or e-mail as soon as contact has been made with the violating owner. The SD is responsible for maintaining a log of each and every contact with the owner in the same manner as described previously for Telephone Logs.
3. Monitoring Plans for Corrective Action - Plans for corrective action, if any, resulting from Hearings Before the Board shall be monitored by the SD. If insufficient progress is being made, the SD is responsible for making an effort to contact the owner to determine the cause. All contacts with owners, including unsuccessful efforts to contact owners, will be logged by the SD in the manner prescribed earlier.
4. Legal Settlement - Action by the Board to take legal action to obtain resolution of a DRV will be taken as a last resort and in the following manner.
 - a. The DRVC has the responsibility to make the recommendation to the Board that legal action be initiated to resolve a DRV or otherwise obtain compliance with the Covenants, the ACC Standards, the approved plans and any conditions of plan approval.
 - b. The DRVC will rely heavily on reports provided by the Manager, who has the primary responsibility for inspections and reporting DRV, as well as for monitoring and reporting the status of any corrective actions being taken by owners. The completeness, timeliness and accuracy of Managers reports is, therefore, critical.
 - c. The Board has the responsibility for making the final decision to accept, reject, or modify the DRVC's recommendation to take legal action to obtain compliance with the Covenants.
 - d. Once the Board has voted to initiate legal action, the DRVC automatically assumes the following responsibilities, among others.
 - 1) Authorizes the Association's attorney to take necessary legal action; liaises with the attorney as may be required.
 - 2) Serves as the official spokesman for the Board until a particular DRV is resolved. NOTE: Once a matter has been released to the attorney for action, all communication with the property owner shall be referred to the DRVC and/or the attorney.
 - 3) Instructs Manager and ACC Chairman to forward required files, documents, plans, communication logs, etc. to the attorney as required.
 - 4) Represents the Board in court appearances.
 - 5) Represents the Board in matters pertaining to negotiated settlements, plans of action, and/or schedules as may be required to resolve the DRV.
 - 6) Informs the Board on a regular basis of the status of the legal proceedings.

- 7) Informs the Board when the DRV has been resolved and authorizes the Manager to delete the DRV from the reports.

This Standard Practice Bulletin shall not be construed in any way to limit the resources or funds the Board may expend to secure compliance with the Declaration of Covenants, Conditions and Restrictions in all ten (10) Sections of Montgomery Trace Subdivision.

This Standard Practice Bulletin pertaining to the Deed Restriction Enforcement Work Process was adopted and put into full effect by majority vote of the Board of Directors at its regular scheduled meeting on 17 March, 2005.



President of the Board of Directors

Date: 17 March, 2005